

DOCKET NO: 208377US0



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
TAKAO IMAEDA, ET AL. : EXAMINER: R. MITRA  
SERIAL NO: 09/864,169 :  
FILED: MAY 25, 2001 : GROUP ART UNIT: 1653  
FOR: METHOD FOR PRODUCING :  
ANTIMICROBIAL PROTEIN AND  
FUSION PROTEIN

ELECTION & RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

ELECTION & RESPONSE TO RESTRICTION REQUIREMENT

In response to the Restriction and Election of Species Requirement mailed October 2, 2003, the Applicants elect with traverse **Group II**, claims 9-19, directed to a fusion protein and the following species: **(A) thionin and (B) chaperonin**.

The traverse is on the basis that the Office has not established that Groups I, II and III are independent and distinct from one another. For example, each Group is directed to similar subject matter pertaining to fusion proteins. Moreover, the Applicants respectfully submit that no undue burden would be imposed on the Examiner in conducting an Examination of all three groups together, because similar subject matter is encompassed by each Group.

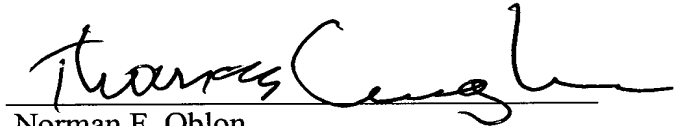
In the event that the restriction requirement is maintained, the Applicants respectfully request that the claims of the nonelected groups which depend from or include all the

limitations of those of Group II, be rejoined upon an indication of allowability for the elected claims, see MPEP 821.04. Moreover, it is the Applicants understanding that upon an indication of allowability for the elected species, that additional species will be examined.

Accordingly, the Applicants respectfully request that the Restriction and Election of Species be withdrawn and all the claims be examined together.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read "Norman F. Oblon", written over a horizontal line.

Norman F. Oblon  
Registration No. 24,618

Thomas M. Cunningham  
Registration No. 45,394

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/03)



Docket No.: 208377US0

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RE: Application Serial No.: 09/864,169  
Applicants: Takao IMAEDA, et al.  
Filing Date: May 25, 2001  
For: METHOD FOR PRODUCING ANTIMICROBIAL  
PROTEIN AND FUSION PROTEIN  
Group Art Unit: 1653  
Examiner: R. Mitra

SIR:

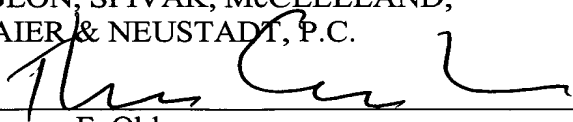
Attached hereto for filing are the following papers:

**Election & Response to Restriction Requirement**

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

  
Norman F. Oblon

Registration No. 24,618

Customer Number

**22850**

(703) 413-3000 (phone)  
(703) 413-2220 (fax)

Thomas M. Cunningham  
Registration No. 45,394